

DEPARTMENT OF THE PROSECUTING ATTORNEY  
**CITY AND COUNTY OF HONOLULU**

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**LATE TESTIMONY**

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**THE HONORABLE WILL ESPERO, CHAIR  
SENATE COMMITTEE ON PUBLIC SAFETY,  
INTERGOVERNMENTAL AND MILITARY AFFAIRS  
Twenty-Eighth State Legislature  
Regular Session of 2015  
State of Hawai'i**

February 12, 2015

**RE: S.B. 1331; RELATING TO PUBLIC SAFETY.**

Chair Espero, Vice-Chair Baker, and members of the Senate Committee on Public Safety, Intergovernmental and Military Affairs, the Department of the Prosecuting Attorney of the City and County of Honolulu submits the following testimony in strong opposition to Senate Bill 1331.

The purpose of S.B. 1331 is to increase the rate and expedite the process by which pre-trial detainees are released into the community.

In 2012, the Legislature passed Act 139, which significantly accelerated the bail evaluation process for pre-trial detainees. Although some additional resources were provided to the Intake Service Center when the enhanced process was introduced we know that they have had to struggle valiantly to handle increased responsibilities, however any further increase in the speed of this process poses a grave risk to victims and to public safety in general. We have observed a significant increase in the release on Supervised Release of individuals who have committed serious crimes including sexual assault, felony domestic violence, and even homicide. One of the reasons that the process doesn't go as quickly as some would like is that it is very difficult to find sponsors for these individuals because frequently their family and friends are afraid of them as well as their victims. We have also experienced a significant problem with misrepresentations of individuals proposed as sponsors who either don't reside where they claim they reside, have a significant criminal history of their own, or are not really willing to accept the responsibilities of a sponsor. There have also been an increasing number of revocations of supervised release due to the high risk individuals now being given this type of release.

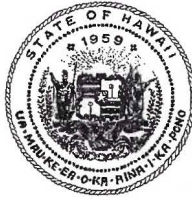
As in 2012, the Department expresses strong concerns about the availability of treatment programs for pre-trial detainees with serious substance abuse or mental health problems. Individuals who may be acceptable for release if they are admitted into an in-patient program are being released out into the streets when there are no openings or when they fail to qualify for a program. We were recently contacted by a felony domestic violence victim who stated that she was contacted indirectly by her abuser to say that despite his request to be released into a drug treatment

program there was nothing available and he was released onto the street with no place to stay and no money or job. Apparently even the offender thought this was a ridiculous situation.

And finally we come to sections of SB 1331 referencing the use of the Ohio Risk Assessment in determining the level of risk posed by pre-trial detainees. While this assessment tool has its benefits, it also has significant shortcomings. For one it is known to be deficient in assessing risk for domestic violence offenders and many jurisdictions utilize additional tools for evaluating this type of offender, thus making any provisions referencing only the Ohio Risk Assessment score as a determinant indicator inappropriate and potentially dangerous. In addition one general shortcoming across the board for the Ohio Risk Assessment is it does include information about danger posed by an offender to the victim in their instant offense. Thus ISC staff routinely (daily) requests input from our victim advocates regarding victim reports of concerns regarding the offender's risk to their safety. This important information is not included anywhere in the Ohio Risk Assessment thus seriously questioning the legitimacy of any provisions in the bill indexing release decisions to Risk Assessment scores. These are provisions to which we strenuously object.

For all of the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu opposes the passage of S.B. 1331. Thank you for the opportunity to testify on this matter.

DAVID Y. IGE  
GOVERNOR



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TESTIMONY ON SENATE BILL 1331  
A BILL RELATING TO PUBLIC SAFETY

Nolan P. Espinda, Director  
Department of Public Safety

Senate Committee on Public Safety, Intergovernmental and Military Affairs  
Senator Will Espero, Chair  
Senator Rosalyn H. Baker, Vice Chair

Thursday, February 12, 2015, 1:15PM  
State Capitol, Conference Room 229

LATE TESTIMONY

Chair Espero, Vice Chair Baker and Committee Members:

The Department of Public Safety (PSD) **opposes** Senate Bill (SB) 1331, Relating to Public Safety. This bill as written, specifically Section 2, would shorten the timeframes of current practices while requiring additional duties of the Intake Service Centers without providing additional resources.

PSD adopted the use of the Ohio Risk Assessment Survey-Risk Assessment Tool (ORAS) as part of the Justice Reinvestment Initiative. To avoid confusion with the bail report, the ORAS was referred to the "internal pretrial risk assessments." It is unclear in this bill if the amendment is requiring a bail report, ORAS or both to be completed in five working days. It should also be noted that an arrestee can remain in law enforcement custody up to 48 hours before being officially charged with a crime, therefore, it would be unlikely that this assessment process could be initiated at arrest.

It is the Department's position that resources are not available to either conduct interviews with sponsors during evening and weekend hours or to perform financial investigations on defendants. Currently, PSD is fulfilling the statutory mandate of completing the ORAS on defendants within three working days of entrance into a

community correctional center. Additional resources may be needed with the courts, prosecutors and public defenders in order for the pretrial process to be expedited.

Thank you for this opportunity to testify.